

**Testimony Submitted to the Insurance Committee of the Michigan Legislature**  
**July 15, 2009**

My name is Dr. William Bloom. I am a Licensed Psychologist and I reside in the 27<sup>th</sup> Michigan Congressional District. I want to thank the committee for providing an opportunity for my experiences as a Licensed Psychologist be heard in support of the consumer protection bills currently being considered. I see children and adults who reside throughout the state of Michigan, but mostly in the tricity area of Wayne, Oakland, and Macomb counties. However, I have patients as far to the north as Oscoda and as far to the south and west as Adrian. I am planning a clinical retreat in the late summer or autumn to provide pro bono child neuropsychology services to underserved areas of northern Michigan.

- I am a Licensed Psychologist with a specialty in Clinical Neuropsychology. I am here to talk about my personal experiences regarding bad faith actions of insurance companies and the effect these bad faith acts have on my patients. After hearing these presentations, I hope you will see fit to approve legislation imposing some form of accountability on insurance companies for the bad faith acts of delaying or denying necessary rehabilitation and treatment to injured individuals in this State.
- In the regular course of my work as a neuropsychologist, I evaluate and treat children and adults with traumatic brain injuries. Treatment occurs within the context of a multidisciplinary treatment setting where professionals in areas of psychology, occupational therapy, speech and language therapy and other rehabilitation specialists work together to address the multiple issues that effect individuals whose brains have been injured.
- Victims of Traumatic Brain Injury are often very difficult patients to treat for many reasons, because they often suffer impairments in memory, judgment, and emotional control. They can be impulsive, angry, or depressed individuals who have suffered a damage to their very identity. When a child suffers a brain injury, the damage is even worse because both intellectual and emotional growth are impaired and children lack the coping mechanisms to emotionally deal with these significant losses.
- Statistically, the vast majority of brain injuries are the result of motor vehicle accidents and, due to limitations on most health insurance policies, the no-fault carrier is the primary payment source for most, if not all, of the expenses associated with the care, recovery and rehabilitation of these injuries.
- I recognize, and even encourage, the fact that the work of health care professionals is subject to scrutiny by regulatory authorities. I even accept a limited role that insurance companies have in the overall effort to control costs associated with providing necessary care. While the most ethical and law abiding healthcare providers may be inconvenienced by the process, we accept this part of the process. It is part of the price to be paid in order to allow the system to uncover the few bad apples - those unscrupulous claimants or fraudulent providers who try to abuse the system.
- Unfortunately, over the last few years, this system has become unbalanced. No-Fault insurance companies have begun to overstep their boundaries and have begun to make critical decisions which direct medical care and treatment by using the power of the purse to limit legitimate claimant's access to needed medical care.
- It is damaging to the claimant because the claimant is prohibited from receiving treatment as recommended by treating doctors. It is more costly in the long run

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because untreated brain injuries lead to other problems and ultimately result in the loss of a person as a productive member of society. More often than not, these victims end up on permanent disability and are diverted from the no-fault system to the already overburdened Medicare or Medicaid systems. Taxpayers end up paying for the delay and deny tactics of insurers.

- As a provider, I can see that the delay and denial of legitimate claims is an abusive pattern of behavior which some insurance companies engage in some of the time and is substantially different than the legitimate process of detecting and prosecuting fraudulent claims.
- A so-called “Independent Medical Examination” is performed by a clinician of the insurer’s choice. While this is an accepted practice, I would refer the committee to the investigative activities of the Attorney General for the State of New York in cases of state workers’ compensation cases. Insurance company IMEs are overwhelmingly stacked against claims of injury. I would encourage investigation into the relationship of insurers to IME providers and enact regulatory consequences against IME providers who engage in biased, erroneous, or incomplete IME reports. Of course, claimant IME providers should be subject to the same standards. To provide a frame of reference to the level of bias found in IME reports, I give the following examples:
  - An IME provider reported scores in time completed was normal but failed to report that numerous errors were made completing the task. The provider presented the test scores as normal when they were actually impaired.
  - An IME provider attributed attention problems of a child to a genetic predisposition for ADHD based on the report that his two older brothers had ADHD. She failed to point out that the patient had a different father than his brothers and his biological father showed no evidence at all for ADHD.
  - An IME provider threw out a test which was abnormal after he saw the score, stating it wasn’t a valid test.
  - Another IME provider threw out a test which was abnormal after he saw the score, stating it wasn’t a valid test.
  - An IME provider stated that a child had a pre-existing condition even when pre and post accident test scores were available for comparison which clearly stated the contrary.
  - An IME provider failed to recommend grief counseling to a young child who witnessed the death of his mother in the motor vehicle accident. The insurer denied payment for our services.
- In my practice, I have seen claims denied to children in the following types of situations:
  1. In one case, a child was involved in a serious motor vehicle accident, and suffered a brain injury. He watched his mother die in the accident. The insurer denied almost all recommended rehabilitation services, including grief counseling. An IME provider did not recommend grief counseling. The insurer determined that it was unreasonable for a child to receive grief counseling after watching his mother die in a violent motor vehicle crash.
  2. In another case, a teenage girl was a passenger in a vehicle which was hit by a bus. The force of the crash pushed the car engine into her lap. Because of the accident, she lost an eye, has impaired hearing, suffered a

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serious broken leg, has significant facial scarring. She too sustained a traumatic brain injury causing problems with memory, judgment, and emotional control. These problems are superimposed upon the problems one would expect in a teenage girl with significant disfiguring scars, who is blind in one eye and partially deaf. Despite the obvious injuries and the undeniable fact these injuries were caused by a motor vehicle accident, the no-fault insurer has refused payment for reasonably necessary and effective rehabilitation services. Although she continues to experience significant problems from her broken leg, she was not able to return to her orthopedic surgeon because his bill had not been paid. Because of her inability to get necessary academic support for her brain injury this young girl was unable to graduate high school with her class. She wants to attend college but has no skills to rely upon. She received no services for the last year. She wants treatment. She wants to live a normal life, to work and be productive and these goals would be within her grasp with reasonable amounts of treatment and assistance. Without that treatment and assistance, she has little chance of accomplishing her goals. This girl deserves to be more than another statistic.

3. In yet another case, a young patient was involved in a high speed motor vehicle accident in which his aunt was killed. He was ejected from the vehicle and landed on the interstate highway. He had major orthopedic issues. His neuropsychological evaluation went unpaid and the adjuster refused treatment. The reason the adjuster refused treatment was because, in the adjuster's opinion, this brain injured child "acted no differently" than the adjuster's own grandchild. Remarkably, this adjuster felt comfortable making this life changing decision to deny treatment for this child even though she had never met the victim. This child was three years old at the time of the accident.
4. In yet another case in my office, a young boy was riding his bicycle when he was hit by a truck going at least 40 miles per hour. He sustained substantial facial injuries and brain trauma. He was denied access to many rehabilitative services related to brain trauma and behavior disorder. The adjuster maintains that his special education status prior to the accident is the cause of all of his problems and has denied access to many behavioral and cognitive rehabilitation services. The adjuster is relying on school records and reports from individuals unfamiliar with traumatic brain injury in reaching her decision. Prescriptions for treatments from physicians go unfilled.
5. A young adult was struck by two vehicles; he was hit as a pedestrian by one. Then, when he was lying on the pavement he was struck by a second. After sufficient physical recovery, he wants to return to work. While returning to work is possible, to do so, he requires additional education regarding his brain injury and monitoring of his internal controls. He also needs monitoring of his fatigue level to adequately manage his work load. He was denied vocational re-entry rehabilitative services by his insurer. A motivated, potentially self sufficient individual is cut off from receiving the services needed to recover from his injuries and return to being an employed, self sufficient individual.

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- Unfortunately, I have numerous other examples, many of which involve children with verifiable brain injury.
- If the parent engaged in the same behaviors as some insurance companies do in some situations, I would be obligated to report them to protective services for medical neglect.
- The all too common practice of delay and denial of legitimate treatment of children is an abhorrent condition in a civilized society. The citizens of Michigan should demand that their legislators protect them from type of behavior.
- In numerous cases, I see the following patterns emerge in situations of delay and denial of legitimate treatment:
  1. The adjuster or supervisor does not return phone calls. Explanations of Benefits are sent out very late or not at all.
  2. The adjuster renders medical opinions about the claimant. I have had adjusters deny residential placement of a child where the entire treatment was in agreement of the need. The adjuster did this on their own without obtaining any medical consultation. Such action is not only ethically unconscionable; it ended up raising the cost of rehabilitation in the long run because the best treatment option was not accessible. I have had adjusters state a patient is able to drive a vehicle without a medical consultation. I have had an adjuster state that no changes were evident in a patient and ignored a physician request for a re-evaluation. I have had adjusters compare a patient to their own grandchild stating nothing at all is wrong. Adjusters making medical decisions which affect patient health and safety should be illegal and routinely enforced as practicing a healthcare profession without a license.
  3. This system is out of balance. The injured party has no power to hold the insurer accountable for the damage it causes. The legislature has the power to restore public trust in an insurance industry which thinks it can handle claims with immunity. As a licensed healthcare provider, as a clinical neuropsychologist, as a witness to harm done to children, and as a citizen of Michigan, I ask this body to enact legislation to make insurance companies accountable for their actions.

Thank you. I am available to answer any questions or be available to the committee at a later date.

Respectfully submitted,

William Bloom, Ph.D., LP  
District 27